

DPS-267

June 9, 2005

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 05-2846

IN RE: DERRIS GIBSON,
Petitioner

Present: ROTH, BARRY and SMITH, CIRCUIT JUDGES

Submitted is Petitioner's application pursuant to 28 U.S.C. § 2244 to file a second or successive habeas corpus petition, in the above-captioned case.

Respectfully,

Clerk

MMW/CAD/dmm

ORDER

The foregoing application to file a second or successive § 2254 petition is **denied**. Gibson has not made a prima facie showing that the factual predicates for his claims (i) could not have been discovered previously through the exercise of due diligence, and (ii) the factual predicates were "sufficient to establish by clear and convincing evidence that, but for the constitutional error, no reasonable factfinder would have found [him] guilty of the underlying offense." 28 U.S.C. § 2244(b)(2)(B).



By the Court,

/s/ Jane R. Roth

Circuit Judge

Marcia M. Waldron

Marcia M. Waldron, Clerk

Dated: July 5, 2005

SLC/cc: Mr. Derris Gibson

Loren C. Meyers, Esq.